

In the matter of:)
)
Business Meeting)
)
_____)

SACRAMENTO, CALIFORNIA

10:00 A.M.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

Robert Pernell

James Boyd

John L. Geesman

STAFF PRESENT

William Chamberlain, Chief Counsel

Robert Therkelsen, Chief Deputy Director

Betty McCann, Secretariat

Tim Tutt

Suzane Korosec

Paul Roggensack

ALSO PRESENT

Craig Leese, Stockton Roofing Company

Diane Fellman, San Bernadino Project

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

I N D E X

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1 P R O C E E D I N G S

2 CHAIRMAN PERNELL: Good morning. I'd like to
3 call the business meeting of the California Energy
4 Commission to order.

5 Commissioner Geesman, would you lead us in
6 the Pledge, please.

7 (Thereupon, the Pledge of Allegiance was
8 recited in unison.)

9 CHAIRMAN PERNELL: Okay. There is some
10 changes to the agenda. Item Number 3 has been
11 moved to the April 16th business meeting, and Item
12 Number 4B has been pulled.

13 Are there any other changes to the agenda?
14 Hearing none, the Chair will entertain a motion
15 for the consent calendar?

16 COMMISSIONER GEESMAN: So moved.

17 COMMISSIONER BOYD: Second.

18 CHAIRMAN PERNELL: It's been moved by
19 Commissioner Geesman, seconded by Commissioner
20 Boyd. All those in favor?

21 (Ayes.)

22 CHAIRMAN PERNELL: Opposed?

23 The ayes have it.

24 Item Number 2, Renewables Committee Report.
25 The possible Commission approval of a Renewables

1 Committee Report, Customer Credit Renewable
2 Resources Account: Report to the Governor and the
3 Legislature - Implementation of Renewables
4 Investment Plan Legislation (SB-1038).

5 Mr. Tutt.

6 MR. TUTT: Good morning, Commissioners.

7 The item before you today is the possible
8 approval of the customer credit report that the
9 Commission was required to do by SB 1038. The
10 report is being prepared for your adoption and
11 presented for your adoption by the Renewables
12 Committee. The report recommends discontinuation
13 of the Customer Credit Program and reallocating
14 the funds to three other purposes in the Renewable
15 Energy Program. There is a resolution also being
16 adopted to that effect, and we urge your
17 consideration and adoption of the report and the
18 resolution.

19 CHAIRMAN PERNELL: Any questions?

20 Hearing none, the Chair will entertain a
21 motion.

22 COMMISSIONER GEESMAN: So moved.

23 COMMISSIONER BOYD: Second.

24 CHAIRMAN PERNELL: It's been moved by
25 Commissioner Geesman, second by Commissioner Boyd.

1 All those in favor?

2 (Ayes.)

3 CHAIRMAN PERNELL: Opposed?

4 The ayes have it.

5 Item Number 4. Item Number 4, Renewable
6 Energy Program.

7 All right. Item Number 4, which will be 4A
8 and C. Possible approval of Renewables Committee
9 recommendations concerning undergeneration
10 penalties for three on-line projects participating
11 in the New Renewable Resources Account. These
12 projects are also subject to penalties according
13 to their on-line dates.

14 We've got the Minnesota Methane Tulare
15 Landfill Gas Project, 1.78 megawatts is A.

16 And C is the Minnesota Methane Yolo Landfill
17 Gas Project, 2.3 megawatts.

18 MS. KOROSSEC: Good morning, Commissioners.
19 Projects that participate in the New Renewable
20 Resources Account are required once they are on
21 line to meet minimum generating requirements.
22 They have to estimate what they are going to be
23 generating annually for the first five years as
24 part of their bid into the auction. And once they
25 are on line, they have to meet at least 85 percent

1 of that to continue receiving funds. These two
2 Minnesota Methane projects have been unable to
3 meet that 85 percent generation.

4 However, there are provisions in our
5 guidelines to allow projects to inform us of the
6 reasons for the undergeneration and it's up to the
7 Committee's discretion whether they wish to impose
8 any penalties or not. These projects have shown
9 that they have done some significant work recently
10 to bring their generation back up to the required
11 minimum and the Renewables Committee is
12 recommending giving them until July 1st of this
13 year to demonstrate that they can get up to that
14 85 percent level.

15 CHAIRMAN PERNELL: Thank you.

16 Any questions.

17 COMMISSIONER GEESMAN: Move adoption.

18 COMMISSIONER BOYD: Second.

19 CHAIRMAN PERNELL: It's been moved and
20 seconded on Item Number 4.

21 On the question, all those in favor?

22 (Ayes.)

23 CHAIRMAN PERNELL: Opposed?

24 The ayes have it.

25 Suzanne, I guess you're up for Number 5 as

1 well.

2 Possible approval of restoration for full
3 funding awards for New Renewable Resources Account
4 projects that originally received reduced awards
5 in the October 2000 and June 2001 auctions. And
6 these are A through E.

7 MS. KOROSSEC: These projects had their awards
8 reduced in the October 2000 and June 2001
9 auctions. There was a provision in those auctions
10 that if there aren't enough funds to fully fund
11 all of the bidders, the last bidders that are
12 accepted can choose to have their awards either
13 reduced or they can withdraw from the auction.
14 These bidders chose to have their awards reduced.

15 Before bidders A through D were in the
16 October 2000 auction, they submitted tieing bids
17 so that all of their bids were reduced by the same
18 amount. And E was reduced in the June 2001
19 auction, they were the only bidder whose award was
20 reduced.

21 Our guidelines were recently changed in
22 August of 2002 to allow projects whose awards were
23 reduced in this manner to be augmented if funds
24 became available in an auction because of
25 penalties or cancellations from other projects.

1 These projects have petitioned to have their
2 awards augmented under that provision. The
3 Committee reviewed their petitions and recommends
4 that their awards be augmented and brought up to
5 the full 100 percent that was in their bid.

6 CHAIRMAN PERNELL: Thank you.

7 Questions from the Committee?

8 The Chair will entertain a motion.

9 COMMISSIONER BOYD: Move the item.

10 COMMISSIONER GEESMAN: Second.

11 CHAIRMAN PERNELL: It's been moved and
12 seconded.

13 All those in favor?

14 (Ayes.)

15 CHAIRMAN PERNELL: Opposed?

16 The ayes have it.

17 Thank you.

18 MS. KOROSSEC: Thank you.

19 CHAIRMAN PERNELL: Item Number 6, possible
20 approval of Contract 500-02-024 for \$135,500 to
21 demonstrate that the acoustic stimulation process
22 or aluminum is commercially viable for
23 California's metal casting industry.

24 MR. ROGGENSACK: Good morning, Commissioners.

25 CHAIRMAN PERNELL: Good morning.

1 MR. ROGGENSACK: My name is Paul Roggensack
2 with the PIER Industrial, Agricultural and Water
3 Team. This contract is for 135,000 from the PIER
4 Program to develop and demonstrate acoustic
5 stimulation technology for use in the aluminum
6 foundry and eventual use in other metal
7 industries. And based on laboratory tests, bench
8 work, it's been estimated that this could save
9 potentially 20 percent of the electricity used for
10 melting aluminum at foundries.

11 CHAIRMAN PERNELL: Okay. Questions from the
12 Board?

13 Hearing none.

14 COMMISSIONER GEESMAN: I'll move the item.

15 COMMISSIONER BOYD: Second.

16 CHAIRMAN PERNELL: It's been moved and
17 seconded.

18 On the question, all those in favor signify
19 by saying aye.

20 (Ayes.)

21 CHAIRMAN PERNELL: The ayes have it.

22 Opposed?

23 Hearing none, that will be the order.

24 Minutes of March 19th.

25 COMMISSIONER BOYD: Move approval.

1 COMMISSIONER GEESMAN: Second.

2 CHAIRMAN PERNELL: It's been moved and
3 seconded for the March 19th minutes to be
4 approved.

5 All those in favor?

6 (Ayes.)

7 CHAIRMAN PERNELL: Opposed?

8 The ayes have it.

9 We're now on Commission Committee and
10 Oversight.

11 Are there any?

12 Hearing none --

13 COMMISSIONER GEESMAN: Mr. Chairman, if I
14 may.

15 CHAIRMAN PERNELL: I'm sorry. Commissioner
16 Geesman.

17 COMMISSIONER GEESMAN: I guess I will
18 characterize this as Commission Committee. As you
19 know, Chairman Keese and I have been the
20 representatives of the Commission to this drafting
21 group working on the Joint Energy Action Plan.
22 Chairman Keese and Mr. Therkelsen and I attended
23 last night what we think is the last session of
24 that drafting group. And I would alert each of
25 your offices to the fact that the upcoming drafts

1 that are circulated will be very close to what is
2 ultimately put in front of each of the agencies
3 for our consideration and hopefully adoption.

4 There's a lot of language in the air right
5 now and I hesitate to characterize the changes in
6 too much detail. The areas that I think were most
7 prominent in my mind that represented changes
8 considered by the group last night were, one, in
9 the distributed generation area to rewrite that
10 section to better contemplate actions that I would
11 expect the Public Utilities will be taking in the
12 near future regarding departing load.

13 Also to identify the upcoming distributed
14 generation rulemaking procedures at the Public
15 Utilities Commission and another collaborative
16 effort between the Energy Commission and the
17 Public Utilities Commission similar to our demand
18 response and renewables portfolio standard
19 efforts. And it's my anticipation that that
20 collaborative effort will make considerable use of
21 the PIER research that we have done in distributed
22 generation.

23 The third area has to do in the building
24 standards area where language will circulate as to
25 consideration of modification of building

1 standards to better incorporate distributed
2 generation technologies such as photovoltaics for
3 air conditioning. It's not clear as to whether or
4 not that will require a change in our statutory
5 authority or not.

6 And then finally in the always contentious
7 transmission area, we're going to try some new
8 language which better represents a willingness on
9 the part of the Public Utilities Commission to be
10 bound by our IDPR process in determining the need
11 for a new transmission project. That language
12 will probably reference an upcoming rulemaking
13 process that the Public Utilities Commission will
14 need to complete before they feel that they have
15 the legal authority to be bound by our process.

16 So the devil is always in the details. The
17 language will be circulated hopefully in the near
18 future. I don't think we've set a precise
19 timeframe for that last night, but the Public
20 Utilities Commission would like to proceed with
21 consideration and adoption of the Joint Action
22 Plan at their mid-April meeting. We indicated a
23 hope to have it in front of us by our April 30th
24 meeting, and the Power Authority would be planning
25 to schedule a meeting somewhere around the end of

1 April or early May to take action on it
2 themselves.

3 That's my report, Mr. Chairman.

4 CHAIRMAN PERNELL: Thank you, Commissioner
5 Geesman. It sounds like the collaboration of the
6 agencies are moving forward. And also I would be
7 interested in the draft report when it comes out.

8 Any questions for Commissioner Geesman.

9 COMMISSIONER BOYD: No. Thanks, John, for
10 the report.

11 CHAIRMAN PERNELL: Thank you again.

12 Anything else on the Commission Oversight?

13 Chief Counsel's report.

14 CHIEF COUNSEL CHAMBERLAIN: Yes, Mr.
15 Chairman, I wanted to report to the Commission. I
16 believe we reported about a month, almost two
17 months ago, that the court in the Moss Landing
18 proceeding had remanded the matter to the Regional
19 Board for consideration of the issue of its
20 Finding 48, which had to do with whether the
21 cooling system was the best technology available
22 for reducing cardinal impacts. The Regional Board
23 has --

24 CHAIRMAN PERNELL: Cooling systems for
25 powerplants?

1 CHIEF COUNSEL CHAMBERLAIN: For the Moss
2 Landing powerplant.

3 This is a finding that is required to be made
4 for an NPDS permit which had to be issued before
5 we could issue our license. And as you may
6 recall, the court was reviewing not our license,
7 but the issuance of the NPDS permit, which is a
8 federal permit, or it's actually a state permit,
9 but it's issued in accordance with federal law.

10 The Regional Board has now commenced a
11 hearing for consideration of that specific issue
12 and to allow parties, both Duke and the
13 intervening parties to present whatever evidence
14 they wish to upon the availability of alternative
15 technologies that might be considered the best
16 technology available.

17 The Board had made the finding that once-
18 through cooling was the best technology available
19 because the cost of alternative technologies were
20 wholly disproportionate to the benefits of those
21 technologies, and all of that would be at issue at
22 this hearing which is going to take place on May
23 15. The Energy Commission has been made a party
24 because its license is affected by this, and if we
25 propose to participate on your behalf to urge the

1 Board not to take any action that would
2 potentially take these facilities out of service
3 for any length of time, such as the installation
4 of a brand new cooling system. That is basically
5 it.

6 CHAIRMAN PERNELL: So there will be a
7 recommendation coming to the Board to that effect
8 or is there something you're looking for from us?

9 CHIEF COUNSEL CHAMBERLAIN: I'm just
10 informing you. If there's any concern about what
11 I've just said, I'll certainly appreciate hearing
12 about it. You're free to direct us, of course, in
13 the prosecution of this. We consider this
14 proceeding to be sort of a follow-on to
15 litigation, but it is taking place before the
16 Supreme Court.

17 CHAIRMAN PERNELL: All right. Any questions
18 for Mr. Chamberlain?

19 COMMISSIONER BOYD: One question, Mr.
20 Chairman.

21 Mr. Chamberlain, any possible ramifications
22 you need to discuss with the Committee on this
23 issue with regard to other powerplant siting cases
24 pending before this Commission?

25 CHIEF COUNSEL CHAMBERLAIN: Well, I don't

1 think this particular proceeding which will be
2 focused on the specific facts and circumstances
3 from the Moss Landing Powerplant will have a
4 significant impact on other proceedings.
5 Obviously, the question of whether the NPDS permit
6 in later proceedings can be attacked the way it
7 was attacked in this case well after the time for
8 judicial review of our license would have expired
9 is still a legal issue that I believe the
10 Commission needs to be very concerned about, but
11 it's not really an issue at this proceeding.

12 COMMISSIONER BOYD: Thank you.

13 CHAIRMAN PERNELL: All right. Thank you, Mr.
14 Chamberlain.

15 Executive Director's report.

16 EXECUTIVE DIRECTOR THERKELSEN: Good morning,
17 Commissioners. As you know, last Friday we issued
18 to the Governor's Office our confidential reports
19 on both gasoline price increases and natural gas
20 price increases. The Chairman is over at the
21 Governor's Office right now at a press briefing
22 regarding that subject.

23 And one thing I'd like to say, I'd really
24 like to express the appreciation for the very hard
25 work that was performed by both the Transportation

1 Fuels Office under Ed Perez's leadership and the
2 Natural Gas Office under Dave Malls' leadership.
3 But I also want to thank the Commissioner
4 advisors. All of your advisors contributed to
5 that effort and it went very well with a lot of
6 good positive working relationships. And I also
7 thank the Commissioners in charge of that effort.
8 It was a tremendous team, teamwork.

9 Another thing I wanted to let you know is
10 that the bonds that you approved last week I
11 understand sold in three hours. So that is all
12 completed now. And I think we got a lower
13 interest rate than we had anticipated, and so
14 that's a very positive action.

15 That's my report.

16 COMMISSIONER BOYD: Mr. Chairman, a question,
17 if I may?

18 Mr. Therkelsen, the confidential report is
19 not so confidential since I read about it in this
20 morning's Chronicle.

21 EXECUTIVE DIRECTOR THERKELSEN: Yes.

22 COMMISSIONER BOYD: Even though the press
23 conference is going on as we speak. So is there
24 anything more you might want to discuss?

25 (Laughter.)

1 EXECUTIVE DIRECTOR: Well, the confidential
2 report will be published on Friday.

3 COMMISSIONER BOYD: And I want to add my
4 thanks to all the staff for the hard work they
5 did. I know how hard they did work and how they
6 gave up a weekend and intervening weekend and even
7 last Friday to the 11th hour and 59th minute. You
8 were all here slaving away of course interested in
9 finishing that all up. So a good piece of work.

10 CHAIRMAN PERNELL: Okay. Anything else for
11 Mr. Therkelsen?

12 Thank you.

13 Public Advisor's report, please?

14 MS. MENDONCA: No report today, thank you.

15 CHAIRMAN PERNELL: No report, okay.

16 Public comment. And I have one card from Mr.
17 Leese, Craig Leese, to talk about cool roof
18 applications.

19 MR. LEESE: Thank you very much.

20 CHAIRMAN PERNELL: We need you to state your
21 name for the record.

22 MR. LEESE: Yes. It's Craig Leese, Stockton
23 Roofing Company and L&L Suppliers, Incorporated,
24 Stockton, California.

25 First I would like to complement Ray Darby

1 who was formerly employed by the California Energy
2 Commission as the Cool Roof Program Manager. He
3 did a great job.

4 I have a concern that our product, Heat
5 Shield, which is a white cement coating is not
6 listed or will not be available for the 2005 Title
7 24 Cool Roof Energy Standards. As of February
8 4th, of the 2005 Energy Efficiency Standard in
9 Residential and Nonresidential Workshop, drafted
10 February 4th, page 14 states that all liquid
11 applied roof coating shall state ASTM D2370
12 results of initial performance elongation and
13 initial tensile strength and final percentage
14 elongation after accelerated weathering 1000
15 hours; then the ASTM Test 1653 results for
16 permeance, which is how much water will go through
17 something; and ASTM test D479, results of
18 accelerated weathering 1000 hours.

19 I have the only nonflexible white roof
20 coating in the United States. It's listed on the
21 EPA Energystar list. I have worked with -- I've
22 contacted EB & Associates, who I believe are the
23 consultants to the California Energy Commission
24 concerning cool roofing. I've turned in my
25 specifications that they asked for as to be

1 presented to the Commission. And I would like to
2 find out what I need to do to make sure that our
3 products are represented.

4 Our roofing company is the third-oldest
5 roofing company in California, established in 1912
6 by my great grandfather. And L&L Suppliers is the
7 owner of our materials, Heat Shield White
8 Cementitious Coatings.

9 So as of right now, in fact, you know, when
10 the emergency legislation happened back in 2000
11 before the Cool Roof Program started, it was
12 listed as acrylics only. I am currently
13 eliminated from competing for any kind of energy
14 credit for whoever, and new construction, for
15 anybody who puts one on. So today because of the
16 Title 24 that exists right now for cool roofing,
17 it's acrylics only to 2005.

18 I contacted all the urethane and silicone and
19 other products that were eliminated from the
20 original Title 24, and now they're all in.
21 Because instead of just acrylic only now, they're
22 asking to have flexibility standards. Well, my
23 product is not flexible, it's a white cement
24 product. We've been using it 43 years. It's a
25 great product and I need to -- and I've worked

1 with a number of people at the Energy Commission
2 and I just want to make sure that I'm in for the
3 2005 regulations. And if you could recommend who
4 I should speak to or what processes I might go
5 through, I'd greatly appreciate it.

6 CHAIRMAN PERNELL: Have you spoke to Mr.
7 Pennerton, Bill Pennerton, who --

8 MR. LEESE: Extensively.

9 CHAIRMAN PERNELL: Extensively.

10 COMMISSIONER BOYD: Maybe Mr. Therkelsen --

11 EXECUTIVE DIRECTOR THERKELSEN: Yes,
12 Commissioner, I'd be more than willing to look
13 into this issue and find out what's going on.

14 So I'll talk with you afterwards and we'll go
15 further in terms of looking into this.

16 MR. LEESE: All right. Thank you very much.

17 CHAIRMAN PERNELL: Thank you for coming.

18 MR. LEESE: You're welcome.

19 CHAIRMAN PERNELL: We have Ms. Fellman.

20 MS. FELLMAN: Good morning, Commissioners.
21 I'm Diane Fellman. I'm an attorney representing
22 the San Bernadino Projects whose full funding
23 credit you restored today, and I just wanted to
24 express the project's appreciation. They're about
25 to go on line, so I wanted to let you know that

1 your investment was not going to be wasted, that
2 the incentive during the dark and stormy days of
3 the California energy crisis represented a beacon
4 to their ship to continue developing the project.
5 They now have contracts with two municipal
6 utilities and the incentive was a key component in
7 that continued development during a time when
8 people thought why should anyone do business in
9 California because it was so uncertain regarding
10 the future of development in this state.

11 I also wanted to compliment the Renewables
12 staff at the Commission. I think the program has
13 been very effectively developed. I was here
14 during that development process representing these
15 projects, and now during the implementation, they
16 have done an excellent job in determining how to
17 best get renewables on the ground and into the
18 grid in California. So since we have two of the
19 Renewables Committee members here, I just wanted
20 to make sure that you heard it directly from one
21 of the projects. So thank you.

22 And if you have any questions, I'm glad to
23 answer it about the project.

24 CHAIRMAN PERNELL: Thank you.

25 Any questions or comments?

1 COMMISSIONER BOYD: Thank you. I appreciate
2 your comments, and I particularly appreciate the
3 feeling you have about the staff. We feel about
4 the same way, they did a great job.

5 MS. FELLMAN: Good.

6 COMMISSIONER GEESMAN: And I would say the
7 file on each of these projects is pretty thick in
8 terms of staff work that has been done and the
9 material submitted by the project sponsors, and
10 that has helped the Committee in making what we
11 felt was a very rational evaluation in the
12 recommendation to the full Commission which quite
13 fortunately was adopted today.

14 MS. FELLMAN: Very good. Thank you.

15 COMMISSIONER GEESMAN: Thank you Diane.

16 CHAIRMAN PERNELL: Thank you. And thank you
17 for coming.

18 All right. Is there any other business to
19 come before this Committee? Any other business to
20 come before the Committee?

21 Hearing none, this meeting is adjourned.

22 (Thereupon the California Energy
23 Commission Business meeting was
24 adjourned at 10:29 a.m.)
25

1 CERTIFICATE OF SHORTHAND REPORTER

2 I, MICHAEL J. MAC IVER, a Shorthand
3 Reporter, do hereby certify that I am a
4 disinterested person herein; that I reported the
5 foregoing California Energy Commission proceedings
6 in shorthand writing; that I thereafter caused my
7 shorthand writing to be transcribed into
8 typewriting.

9 I further certify that I am not of
10 counsel or attorney for any of the parties to said
11 California Energy Commission proceedings, or in
12 any way interested in the outcome of said
13 California Energy Commission proceedings.

14 IN WITNESS WHEREOF, I have hereunto set
15 my hand this 16th day of April 2003.
16
17
18
19
20

21 Michael J. Mac Iver

22 Shorthand Reporter
23
24
25